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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT

In re application of: Jayaraman et al.

Attorney Docket No.: TRIPP033

Application No. 09/963,874

Examiner: Unknown

Filed: September 25 2001

Group: 2817

Title: RECEIVE BAND REJECTION FOR A
DIGITAL RF AMPLIFIER

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Box Missing Parts, Washington, DC 20231 on November 27, 2001.

Signed: _____

Mia Mitchell-Haynes

PETITION FOR APPLICATION BY OTHER THAN ALL THE INVENTORS
Pursuant to 37 C.F.R. §1.47 (a)

Assistant Commissioner for Patents
Box Missing Parts
Washington, D.C. 20231

Dear Sir:

Applicant Arun Jayaraman (the "signing joint inventor") hereby petitions the Commissioner to accept for application the above-identified U.S. Patent Application by other than all of the inventors.

The above-referenced application names two (2) inventors: Arun Jayaraman and Cary L. Delano. The signing joint inventor, Mr. Jayaraman, has executed the application, however, Mr. Delano has refused to execute the application.

Filed herewith in response to the Notice to File Missing Parts of Application (Filing Date Granted) is the Patent Declaration of the signing joint inventor with the signature block of the non-signing inventor, Mr. Delano, left blank. In accordance with M.P.E.P. §409.03(a), it is respectfully submitted that this Declaration may be treated as having been signed by one inventor, Mr. Jayaraman, on behalf of the non-signing inventor, Mr. Delano.

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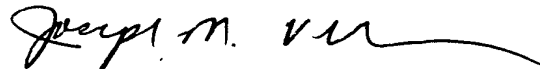
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The last known address of the non-signing inventor, Mr. Delano, as required by 37 C.F.R. §1.47(a) and M.P.E.P. §409.03(e), is 2210 Via Maderos, Los Altos, CA 94024. This address is an address at which the non-signing inventor customarily receives mail.

A Declaration of Facts in Support of Applying on Behalf of Non-signing Inventor is also attached hereto and provides proof of the pertinent facts regarding the inventor who refuses to sign, as required by 37 C.F.R. §1.47(a) and M.P.E.P. §409.03(d).

In view of the refusal of the non-signing inventor to sign the papers required for the above-identified application, the remaining joint inventor is believed to be entitled to make such an application on behalf of and as an agent for the non-signing inventor. The required fee pursuant to 37 C.F.R. §1.17(i) is enclosed.

Respectfully submitted,
BEYER WEAVER & THOMAS, LLP



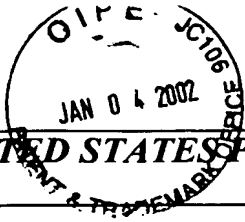
Joseph M. Villeneuve
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Signed:

Mia Mitchell-Haynes

**DECLARATION OF FACTS IN SUPPORT OF APPLYING ON BEHALF OF
NONSIGNING INVENTOR
Pursuant to 37 C.F.R. §1.47 (a)**

Assistant Commissioner for Patents
Box Missing Parts
Washington, D.C. 20231

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Dear Sir:

This declaration is made as to the facts that are relied upon to establish the *bona fide* effort made to secure the execution of the Declaration for the above-identified patent application by the nonsigning inventor. This declaration is being made by the available person having first-hand knowledge of the facts recited therein.

I, Joseph M. Villeneuve, do hereby declare:

1. I am a patent attorney who supervised the preparation of and filed the above referenced application. In this application and in this petition under 37 CFR 1.47, I am representing the interests of Tripath Technology Inc. (Tripath).

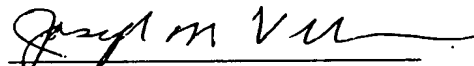
2. Upon information and belief, the subject matter of the application was conceived and developed by Arun Jayaraman and Cary L. Delano (the inventors) while employed by Tripath, and is subject to an obligation of assignment from both inventors to Tripath.
3. Upon information and belief, neither of Mr. Jayaraman and Mr. Delano are currently employed by Tripath.
4. Prior to the filing of the present application, on September 14, 2001, the Declaration and the final version of the application were sent via Federal Express to Mr. Delano at 2210 Via Maderos, Los Altos, California 94024, for execution. Copies of the Federal Express mailing label and cover letter are provided herewith. Delivery of this Federal Express package was confirmed by Federal Express in an e-mail to my assistant, Mia Mitchell-Haynes. A copy of this e-mail is also provided.
5. On September 25, 2001, and prior to the filing of the application, the undersigned contacted Mr. Delano who informed the undersigned that he had received the Declaration but would not sign it for the same reasons he refused to sign the Declaration for U.S. Patent Application No. 09/908,967 (Attorney Docket No. TRIPP031) filed on July 18, 2001. As discussed in the petition and the supporting declaration filed in that case, Mr. Delano refused to execute the Declaration in that case until completion of a negotiation with Tripath regarding the termination of his employment. Copies of the petition and declaration filed for Application No. 09/908,967 are provided herewith.
6. The present application was filed on September 25, 2001, without the Declaration of either of the inventors.
7. Subsequent to receipt of the application number for the present application, on October 16, 2001, a revised copy of the Declaration (including the application number and filing date) and a copy of the application as filed were sent via Federal Express to Mr. Delano at 2210 Via Maderos, Los Altos, California 94024, for execution. Copies of Federal Express mailing label and cover letter are provided herewith. Delivery of this Federal Express package was confirmed by Federal Express in an e-mail to Ms. Mitchell-Haynes. A copy of this e-mail is also provided.

8. On October 24, 2001, a revised copy of the Declaration (including the application number and filing date) and a copy of the application as filed were sent via Federal Express to Mr. Jayaraman at 167 Campdell Drive, Mountain View, California 94043, for execution. Copies of Federal Express mailing label and cover letter are provided herewith. Delivery of this Federal Express package was confirmed by Federal Express in an e-mail to Ms. Mitchell-Haynes. A copy of this e-mail is also provided.
9. On November 12, 2001, the undersigned contacted Mr. Delano who informed the undersigned that he refused to discuss any matters relating to Tripath.
10. At various times between July 16, 2001, and September 21, 2001, the undersigned discussed Mr. Delano's refusal to sign the Declaration for U.S. Application No. 09/908,967 and the nature of the negotiation between Mr. Delano and Tripath with Dr. Adya Tripathi, the President, Chief Executive Officer and Founder of Tripath, Mr. John DiPietro, the Chief Financial Officer of Tripath, and Mr. John Coleman, the Human Resources Director of Tripath. Dr. Tripathi and Mr. DiPietro each indicated that he had first hand knowledge of the nature of the negotiation and that Mr. Delano was making unreasonable demands of Tripath to which the company had no intention of agreeing. Mr. Coleman also stated that he had first hand knowledge of the nature of the negotiations and Mr. Delano's demands, reiterating that the demands were unreasonable and that the company did not intend to agree to them.
11. On July 17, 2001, Mr. DiPietro provided the undersigned with copies of various communications from Mr. Delano to Dr. Tripathi. In one electronic mail message dated July 16, 2001 (a copy of which is provided herewith), Mr. Delano expressly makes execution of the Declaration for U.S. Application No. 09/908,967 contingent on 1) a \$100,000.00 bonus, 2) purchase of a home, and 3) an official communication from Tripath that Mr. Delano's departure from Tripath was voluntary.
12. Both Mr. DiPietro and Mr. Coleman communicated to the undersigned that, given the extravagant nature of the demands, Tripath could not realistically comply with them.
13. Given the foregoing facts, including Mr. Delano's statement to the undersigned that his refusal to sign was for the same reasons he refused to sign the Declaration for Application No. 09/908,967, it should be presumed that Mr. Delano has made an

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unequivocal refusal to sign the Declaration and cooperate in the prosecution of the application.

14. The Declaration executed by Mr. Jayaraman was received by the undersigned on November 19, 2001. A copy of the signed Declaration is provided herewith.
15. Mr. Jayaraman, the joint inventor, has signed a declaration and an assignment leaving blank Mr. Delano's signature blocks in both. Thus, the signed declaration should be treated as having been signed by Mr. Jayaraman on behalf of Mr. Delano per 37 CFR 1.47(a) and MPEP409.03(a)(1).
16. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.


Joseph M. Villeneuve
Reg. No. 37,460

Dated: November 27, 2001

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